

**Board for Judicial Administration
Meeting Minutes**

**June 18, 2010
AOC SeaTac Office
SeaTac, Washington**

Members Present: Judge Marlin Appelwick, Judge Rebecca Baker, Judge Stephen E. Brown, Judge Susan Dubuisson, Judge Deborah Fleck, Mr. Jeff Hall, Judge Laura Inveen, Ms. Paula Littlewood, Mr. Sal Mungia, Judge Jack Nevin, Justice Susan Owens, Judge Kevin Ringus, Judge Chris Wickham

Guests Present: Justice Mary Fairhurst (by phone), Judge Teresa Kulik (by phone), Ms. Delilah George, Mr. Joe McGuire, Ms. Barb Miner, and Judge Christine Quinn-Brintnall

Staff Present: Ms. Beth Flynn, Ms. Shannon Hinchcliffe, Mr. Dirk Marler, and Ms. Mellani McAleenan

The meeting was called to order by Judge Appelwick.

May 21, 2010 Meeting Minutes

Judge Fleck asked that the following changes be made to the minutes:

- On page 3 in the Judicial Stabilization Trust Account section, change “JSTA” in the second to last paragraph to “JSTA and Justice in Jeopardy.”
- On page 5 in the last paragraph, on the last line, change “Their” to “The WSBA”.

It was moved by Judge Fleck and seconded by Judge Baker to approve the May 21, 2010 meeting minutes with the recommended revisions. The motion carried.

BJA Best Practices Committee Nominations

With the appointment of Judge Jean Rietschel to King County Superior Court, she is now a Best Practices Committee nominee of the Superior Court Judges’ Association (SCJA) instead of the District and Municipal Court Judges’ Association (DMCJA).

It was moved by Judge Baker and seconded by Judge Brown to appoint Judge Christine Quinn-Brintnall, Judge Jean Rietschel, and Judge Jerry Roach to the BJA Best Practices Committee. The motion carried.

It was moved by Judge Wickham and seconded by Judge Baker to reappoint Judge Julie Spector to the BJA Best Practices Committee. The motion carried.

Judge Quinn-Brintnall stated that the next time the BJA Bylaws are reviewed the BJA should consider exempting the Chair of the Best Practices Committee from the two term limit requirement.

BJA Court Security Committee Nomination

It was moved by Judge Baker and seconded by Judge Ringus to appoint Mr. Ron Miles to the BJA Court Security Committee. The motion carried.

Proposed Revision to Public Trust and Confidence Committee Mission Statement

Justice Fairhurst received some concerns regarding the revision of the Public Trust and Confidence Committee mission statement. The mission statement has been revised to address the concerns and an updated draft was included in the meeting materials.

It was moved by Judge Fleck and seconded by Judge Dubuisson to approve the revisions to the Public Trust and Confidence Committee Vision, Mission and Goals Statement. The motion carried.

Public Trust and Confidence Committee Project to Add a Fifth Day to the Legislative Scholars Program

Justice Fairhurst reported that the Public Trust and Confidence Committee would like to add an extra day to the Legislative Scholars Program. The program will be held at the Temple of Justice in the courtroom and the Chief Justice's Reception Room. There is no extra cost to add the day to the program and the Legislative Scholars Program will reproduce the materials.

It was moved by Judge Dubuisson and seconded by Judge Baker to approve the request by the Public Trust and Confidence Committee to add a fifth day to the Legislative Scholars Program. The motion carried.

State Budget Forecast

Mr. Hall gave a brief update on the state budget forecast. Yesterday morning the state announced that revenue was down another \$19.5 million below the February forecast. To date, revenue has dropped \$38 million from the February forecast. Revenue growth to the state will be due to increased taxes. The outlook is expected to be slow and uneven.

It is not known what will happen with the tax repeal initiative so the budget is on shaky ground.

The deficit could be in the \$3 to \$7 billion range next legislative session. The \$7 billion figure is what it would cost to fund everything, including the unfunded programs and the \$2 to 3 billion range is what it would take to cover the current items in the budget.

Whistleblower Work Group

Mr. Hall reported that a Whistleblower Work Group drafted a judicial branch whistleblower policy that would apply to employees of the Supreme Court, Court of Appeals, Law Library, Reporter of Decisions, Supreme Court Commissioner's Office, Supreme Court Clerk's Office, the Administrative Office of the Courts, the Office of Public Defense (OPD) and the Office of Civil Legal Aid (OCLA). It would not apply to judicial officers and there has been no discussion about extending it to local government employees.

It is a housekeeping item that the judicial branch has needed to do for a number of years. The branch does not currently have a policy and if a complaint were to come forward, it would be handled through the State Auditor's Office.

Any comments regarding the draft policy can be sent to Mr. Rick Neidhardt at the Administrative Office of the Courts. If there are thoughts related to local applicability, please contact Ms. McAleenan.

Trial Court Operations Funding

Judge Fleck gave an overview of the history of the Justice in Jeopardy Initiative to remind the BJA members of what was involved in securing the Justice in Jeopardy funds in court operations, indigent defense and parent dependency representation, and in civil legal aid.

By the end of the first three years of lobbying the Legislature for Justice in Jeopardy Initiative funding, the Legislature had appropriated \$78 million per biennium to the Initiative.

In the 2009 legislative session, the Justice in Jeopardy Initiative retained 96% of those overall gains, although the pass-through funds in the court operations portion (interpreters, CASA and Family and Juvenile Court Improvement Plan grants) were cut by 19+% in 2009 and an additional small reduction in 2010, as was the Administrative Office of the Courts (AOC).

Judge Fleck would like the BJA to discuss the possibility of asking the Legislature to restore some or all of the original funding and possibly seek a modest increase. By way

of background and comparison, the Office of Public Defense (OPD) is considering asking the 2011 Legislature for an additional \$7.9 million to expand the parent dependency representation to the remaining one third of the state. The preliminary proposal also includes a request for an additional \$2.9 million in indigent defense funding. The Office of Civil Legal Aid (OCLA) might ask for an additional \$1 million in funding.

Mr. Hall stated that both proposals submitted to the Supreme Court Budget Committee for the Family and Juvenile Court Improvement Plan (FJCIP) were approved by the Supreme Court to go to the next stage but that does not mean they will be included in the Supreme Court's budget.

Judge Appelwick asked why the BJA would ask for funding increases in light of the cuts that have been taken recently. With the prospect of a deficit any new funding item added will come out of the existing budget. The discussion should be are these items important enough to give up funding in some areas and redirect the funding to these items?

Judge Fleck responded that the reason this request is being brought to the BJA is that there are state level agencies able to make presentations to the Supreme Court Budget Committee, especially since it revised its process of overseeing the judicial branch budget. The OPD and the OCLA have oversight committees that include legislators and they have worked within the Supreme Court budgeting process but they can also go straight to the Legislature. Addressing court operations funding through the BJA is critical when the OPD and the OCLA are making their presentations. Because there are so many unknowns, such as the federal Medicaid funding, the Gates' Initiative, and the revenue forecasts, the BJA needs to be ready with information and data so that later in the fall, final decisions can be made.

Judge Fleck stated that this presentation is mainly for informational purposes because no analysis has been completed for what funding could be restored.

Judge Appelwick indicated that he would like to see at this table a conversation on prioritizing. If there is ever a time to prioritize, it is during a sustained cut. At some point, there has to be some serious prioritization.

Judge Fleck stated that the BJA does need to talk about prioritization but in 2005 while facing a \$1.6 billion budget deficit, the judicial branch "spoke with one voice," and achieved results in each of the Justice in Jeopardy areas of court operations (a portion of the DMCJA judges' salaries being paid by the state), as well as in indigent defense and parent dependency representation, and in civil equal justice funding. During that session, there was minimal prioritization and Justice in Jeopardy programs were funded. There was a prioritization of requesting DMCJA salary funding over juror pay funding. She recognized that the appellate courts receive 100% of their funding from

the state, but noted that the trial courts also receive state funding now in areas mandated by the constitution or statutes such as interpreters and guardians ad litem (CASAs) for children in dependency cases.

Judge Fleck said that the BJA devoted the most intensive effort ever made by the judicial branch over a two year period to the Trial Court Funding Task Force and cannot allow the gains in court operations to simply slip away because there is no updated data to present to legislators. Through the leadership of BJA, much time has been invested, utilizing so many people, that she does not want to lose funding and wants to go forward when the time is appropriate.

It was pointed out that the judiciary probably needs to be concerned about not losing existing funding.

Part of the prioritization conversation has to be the amount of money being spent for the resource. The judiciary needs to be efficient and get the most bang for the buck.

It was suggested that it might be useful to study the Becca and truancy funding to determine if the funding has a positive effect on society. This topic should be discussed at a future BJA meeting.

Washington State Bar Association (WSBA)

Mr. Mungia reported that Mr. Steve Toole will take over as President of the WSBA in September and Mr. Steve Crossland will be the new President-elect.

Mr. Mungia would like the WSBA Bylaws revisions to be completed before his term is up. Judge Stephen Warning and Judge Marilyn Paja are meeting with the WSBA regarding the WSBA Bylaws revisions.

There has been great participation in the Campaign for Equal Justice by judges, the WSBA Board of Governors, the Pierce County Bar Association Trustees, and the Washington Young Lawyers Association Trustees. The WSBA was awarded the Harrison Tweed award by the American Bar Association for their achievements in advancing equal access to justice in Washington.

Ms. Littlewood reported that the WSBA's new seminar facility opened this week and it has a dedicated webcasting studio. The WSBA will begin webcasting seminars across the state.

The WSBA is discussing launching Citizen Law Academies across the state. The academies would include six to nine weeks of free training about civics and the rule of law.

Reports from the Courts

Supreme Court: Justice Owens reported that there are two weeks left in the spring term. There are two contested Supreme Court elections that will keep all of the justices involved and interested during the summer and perhaps into the fall.

Court of Appeals: Judge Kulik reported that the Court of Appeals is continuing work on budget reductions and expects to finalize decisions by the end of the summer.

Superior Courts: Judge Fleck reported that the Superior Court Judges' Association (SCJA) identified three judges to participate with the WSBA on the WSBA Bylaws revision. The SCJA is also very interested in the fee surcharge issue that was discussed at the BJA meeting last month and there is a meeting on June 30 regarding the issue. The SCJA is working on their legislative agenda. Judge Inveen is the newly elected SCJA President-elect.

Courts of Limited Jurisdiction: Judge Brown welcomed the new District and Municipal Court Judges' Association (DMCJA) members of the BJA: Judge Ringus and Judge Gregory Tripp. The DMCJA had a great joint Spring Conference with the District and Municipal Court Management Association. The facility and food were marginal but the conference itself was great. Chief Justice Madsen and Justice Owens participated and Mr. Mungia was a great speaker at their luncheon.

Association Reports

Superior Court Administrators: Ms. George reported that the Superior Court Administrators recently established a mentorship program for new superior court administrators. They paired up some new administrators with mentors and Ms. George will report back at a future meeting on how the mentor program is working. They are currently updating their court administrator deskbook that lists all the various case and court rules applicable to how their offices are run.

District and Municipal Court Administrators: Mr. McGuire echoed Judge Brown's remarks on the joint conference last month. The DMCMA is implementing the changes from the last legislative session, many of which are effective June 10. They also put together training for court staff.

Administrative Office of the Courts

Mr. Hall reported that the fiscal year is wrapping up and the Administrative Office of the Courts (AOC) is extending their contract with Adobe Connect. The AOC is closing out the fiscal year which is keeping the fiscal staff very busy.

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The AOC received a furlough reduction of 10 days for all staff. AOC Leadership made the decision not to close the agency for set furlough days and are letting staff choose their own furlough days which will result in a few limited service days. November 12 will have large number of staff gone and several other days will see 10-20% of the staff out on furlough. AOC will also experience the loss of time working over 40 hours during furlough weeks. Mr. Hall will send a notice to courts regarding AOC's furloughs and notifying them of the limited service days.

There being no further business, the meeting was adjourned.